

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

Cryptography Research Inc.,

NO. C 04-04143 JW

Plaintiff,

**ORDER APPOINTING MR. RAINER
SCHULZ AS A TECHNICAL ADVISOR**

v.

Visa International Service Assoc.,

Defendants.

On March 7, 2007, the Court issued a Proposed Order of Appointment of a Technical Advisor, Mr. Rainer Schulz. (See Docket Item No. 297.) The deadline for raising any objections has passed. Accordingly, the Court appoints Mr. Rainer Schulz as a Technical Advisor under the following terms:

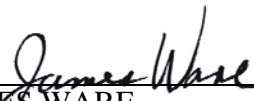
1. Any advice provided to the Court by Mr. Schulz will not be based on any extra-record information.
2. From time to time, the Court may request Mr. Schulz to provide a formal written report on technical advice concerning the case. A copy of the formal written report prepared by Mr. Schulz shall be provided to the parties. The Court, however, reserves the right to have informal verbal communications with Mr. Schulz which are not included in any formal written report.
3. Mr. Schulz may attend any court proceedings.
4. Mr. Schulz may review any pleadings, motions or documents submitted to the Court.

- 1 5. As a technical advisor, Mr. Schulz will make no written findings of fact and will not
- 2 supply any evidence to the Court. Thus, Mr. Schulz will be outside the purview of
- 3 “expert witnesses” under Fed. R. Evid. 706. As such, the provisions in Rule 706 for
- 4 depositions and questioning of expert witnesses will be inapplicable to Mr. Schulz.
- 5 See Reilly v. United States, 863 F.2d 149, 155-56 (1st Cir. 1988).
- 6 6. Mr. Schulz will have no contact with any of the parties or their counsel other than for
- 7 billing purposes.
- 8 7. The parties are directed to pay the reasonable fees charged by Mr. Schulz for his
- 9 service as a technical advisor to the Court in this case. The parties shall confer to
- 10 determine an apportionment for purposes of payment of Mr. Schulz’s fees. All
- 11 matters pertaining to the fees of Mr. Schulz are referred to the assigned Magistrate
- 12 Judge.
- 13 8. Mr. Schulz shall file a declaration that he will adhere to the terms of his appointment.

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16 Dated: March 20, 2007



JAMES WARE
United States District Judge

1 THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:

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17 Dated: March 20, 2007

Howard W. Wieking, Clerk

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19 By: /s/ JW Chambers
Elizabeth Garcia
20 Courtroom Deputy
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